



UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Communications
and Information
Washington, D.C. 20230

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The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Re: Equal Access and Interconnection Obligations Pertaining to
Commercial Mobile Radio Services, CC Docket No. 94-54

Dear Chairman ^{Reed}Hundt:

This letter concerns the Commission's tentative decision in the above-captioned Notice of Proposed Rulemaking ("Notice") to impose equal access obligations^{1/} on certain commercial mobile radio service ("CMRS") providers -- cellular radio carriers. Like the Commission, NTIA strongly supports the goal of increased consumer choice for wireless interexchange services. We question, however, whether equal access is the appropriate regulatory tool at this time to achieve that goal.

The Commission's proposal should be viewed against the backdrop of significant changes in the CMRS marketplace. The Commission has awarded licenses for narrowband personal communications services ("PCS") and is in the latter stages of competitive bidding for broadband PCS licenses as well. Further, the continued deployment of Specialized Mobile Radio ("SMR") systems and other wireless services will also affect the CMRS marketplace. In the Notice, the Commission properly questions "whether the advent of these new commercial mobile radio services should alter our tentative conclusion to impose equal access obligations on cellular providers."^{2/}

Given the evolving state of the CMRS market, the Commission should exercise caution in deciding whether to extend equal access to cellular carriers not

1/ In this letter, the term "equal access" refers to both 1 + dialing of long distance calls and the presubscription, balloting, and allocation procedures required to implement such dialing.

2/ Notice, 9 FCC Rcd at 5429, ¶ 43.

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currently subject to those obligations.^{3/} If CMRS competition becomes as pervasive as most observers predict, the potential future benefits of equal access will be outweighed by the costs of implementing it -- costs borne disproportionately by small and rural cellular providers least able to bear them. On the other hand, if the CMRS marketplace does not become adequately competitive, the Commission can and should revisit the equal access issue at a future date.

Deferring the imposition of equal access at this time does not mean denying consumers the opportunity of choosing the provider to carry their interexchange wireless calls.^{4/} The Commission could guarantee consumer choice by requiring all CMRS providers (e.g., cellular, PCS, and enhanced SMR) currently exempt from equal access obligations to offer their customers 10XXX dialing.^{5/} The cost of

3/ The federal district court with jurisdiction over the AT&T Consent Decree ruled in 1986 that the equal access provisions of that decree apply to the cellular affiliates of the seven Bell Operating Companies ("BOCs"). AT&T's cellular operations will be required to comply with equal access as a condition for the Department of Justice's approval for AT&T's acquisition of McCaw Cellular.

4/ NTIA agrees fully with the Commission's determination that wireless subscribers would benefit from increased choice of interexchange carriers. See Notice, 9 FCC Rcd at 5426-5427, ¶¶ 36-38.

5/ NTIA recognizes that this approach would impose different regulatory requirements on the BOCs and AT&T/McCaw, on the one hand, and remaining CMRS providers, on the other. That differential treatment is not unwarranted, however. Equal access was imposed on the BOCs' wireline networks and extended to their wireless facilities to limit the BOCs' ability to restrict interexchange competition and consumer choice through BOC control of bottleneck facilities. The AT&T/McCaw merger will combine the nation's largest IXC with the nation's largest cellular provider. In deciding to impose the equal access obligation upon AT&T/McCaw, the Department of Justice noted that "[t]he merger may lessen competition substantially in the markets for the provision of interexchange service to cellular subscribers." See Proposed Final Judgment and Competitive Impact Statement; United States of America v. AT&T Corp., and McCaw Cellular Communications, Inc., 59 Fed. Reg. 44158, 44169 (1994). With the possible exception of GTE, none of the other current CMRS providers present the same potential for anticompetitive abuse. Thus, it would not be unreasonable for the FCC to impose a slightly lesser degree of regulation upon them.

providing such dialing would be nominal in comparison to the cost of full equal access. Moreover, most cellular carriers voluntarily offer it already. In short, 10XXX dialing would impose minimal burdens on CMRS providers, while at the same time enabling consumers to obtain many of the benefits of increased competition in the interexchange market.

Under NTIA's proposal, CMRS providers would be required to inform their customers about the availability of 10XXX dialing and provide instructions on its use. Those providers would also be obligated to inform their customers of the speed dialing capability available in most wireless phones. Speed dialing would, of course, make 10XXX access virtually identical to 1 + dialing (the extra digits can be programmed into the speed dial function on the wireless phone).

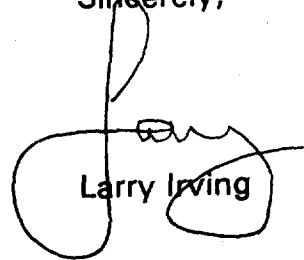
The Commission has sought comment on the appropriate "local calling areas" within which equal access or 10XXX dialing would not be required. NTIA believes that such local calling areas should correspond to LATAs, as established by the MFJ and as modified by subsequent waivers. Most importantly, defining local calling areas in term of LATAs, rather than larger territories such as Major Trading Areas, would avoid widescale reclassification of calls from the workably competitive long distance market to the less competitive cellular market.

The use of LATAs need not bar CMRS providers from continuing to offer wide area calling plans.^{6/} The Commission could give CMRS companies broad flexibility to implement such plans, so long as they also offer a separate rate for calls within their local calling areas. This implicit rate unbundling requirement would allow a CMRS customer to determine whether it would be better off with the provider's wide area calling plan -- which would include both inter- and intra-LATA charges -- or with the combination of the provider's intraLATA rates and those of the customer's chosen long distance carrier.

6/ Under such plans, wireless customers pay a flat rate for all calls made within the entire contiguous area served by their chosen CMRS provider, regardless of whether those calls could be considered local or long distance.

For the reasons stated above, NTIA respectfully requests that the Commission require CMRS providers to offer 10XXX dialing, instead of full equal access.

Sincerely,



Larry Irving

cc: The Honorable James H. Quello
The Honorable Andrew C. Barrett
The Honorable Susan Ness
The Honorable Rachelle B. Chong
Kathleen Wallman, Chief Common Carrier Bureau
Regina Keeney, Chief Wireless Telecommunications Bureau